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MAILED
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OFFICE OF PETITIONS

In re Patent No. 7,671,010	:
Arap et al.	:
Issue Date: March 2, 2010	:
Application No. 10/530,168	:
Filed: February 23, 2006	:
Attorney Docket No. UTSC:857US	:
Title: COMPOSITIONS AND METHODS	:
OF USE OF TARGETING PEPTIDES	:
FOR DIAGNOSIS AND THERAPY OF	:
HUMAN CANCER	:

This is a decision on the petition filed on May 3, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seven (807) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred forty-seven (547) days is **GRANTED to the extent indicated herein.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 119 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 733 days (February 29, 2008 to March 2, 2010 the day of issuance of the patent).

However, review of the record shows that an additional reduction of 198 days is warranted. The PCT application was held abandoned for the failure to pay the national fee by February 28, 2005. 37 CFR 1.704(c) provides that:

transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 62 days for the submission of reply on January 4, 2010 is warranted. The reduction is based upon the Notice of Missing Parts mailed September 23, 2005. The reduction equals, the number of days in excess of three months that was taken to reply to the September 23, 2005 Notice to File Missing Parts. A reply was submitted in three months and 62 days.

Thus, patentees' delay totals 305 days.

In view thereof, the patent is entitled to an overall adjustment of 547 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred forty-seven (547) days**.

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

- (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
- (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance the application was held abandoned on February 28, 2005. A grantable petition to revive under 37 CFR 1.137(b) was filed on June 30, 2005 and granted on September 13, 2005.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced 198 days. The period of reduction commenced February 28, 2005, the date of abandonment, and ended September 13, 2005, the date of mailing of the decision reviving the application. See, 37 CFR 1.704(c)(3)(i).

Further, a reduction of 62 days is required pursuant to 37 CFR 1.704(b).

37 CFR §1.704(b) provides:

an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection,

objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or

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Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight

Director

Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,671,010 B2

DATED : March 2, 2010

DRAFT

INVENTOR(S) : Arap et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 446 days

Delete the phrase "by 446 days" and insert -- by 547 days--